

OFFICIAL GAZETTE



GOVERNMENT OF GOA

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Law (Legal & Legislative Affairs) Department

Notification

12-1-94/LA

The Airports Authority of India Act, 1994 (Central Act, 55 of 1994) which has been passed by the Parliament and assented to by the President of India on 12-9-1994 and published in the Gazette of India, Extraordinary, Part II, Section I dated 13-9-1994 is hereby published for the general information of the public.

P. V. Kadnekar, Joint Secretary (Law).

Panaji, 25th April, 1995.

THE AIRPORTS AUTHORITY OF INDIA ACT, 1994

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THE AIRPORTS AUTHORITY OF INDIA ACT, 1994

AN

ACT

to provide for the constitution of the Airports Authority of India and for the transfer and vesting of the undertakings of the International Airports Authority of India and the National Airports Authority to and in the Airports Authority of India so constituted for the better administration and cohesive management of Airports and Civil enclaves whereat air transport services are operated or are intended to be operated and of all aeronautical communication stations and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. *Short title, commencement and application.*— (1) This Act may be called the Airports Authority of India Act, 1994.

(2) It shall come into force on such date as the Central Government may by notification in the Official Gazette, appoint.

(3) It applies to —

(a) all airports whereat air transport services are operated or are intended to be operated, other than airports and airfields belonging to or subject to the control of, any armed force of the Union.

(b) all civil enclaves;

(c) all aeronautical communication stations; and

(d) all training stations, establishments and workshops relating to air transport services.

2. *Definitions.*— In this Act, unless context otherwise requires.—

(a) “aeronautical communication station” means a station in the aeronautical communication service which includes aeronautical practising service, aeronautical fixed service, aeronautical mobile service and aeronautical radio communication service;

(b) “airport” means a landing and taking off area for aircrafts, usually with runways and aircraft maintenance and passenger facilities and includes aerodrome as defined in clause (2) of section 2 of the Aircraft Act, 1934; 22 of 1934

(c) “airstrip” means an area used or intended to be used for the landing and take-off of aircrafts with short take-off and landing characteristics and includes all buildings and structures thereon or appertaining thereto;

(d) “air traffic service” includes flight information service, alerting service, air traffic advisory service, air traffic control service, area control service, approach control service and airport control service;

(e) “air transport service” means any service, for any kind of remuneration, whatsoever, for the transport by air of persons, mail or any other thing, animate or inanimate, whether such service relates to a single flight or series of flights;

(f) “appointed day” means such date as the Central Government may, by notification in the Official Gazette, appoint for the purposes of section 3;

(g) “Authority” means the Airports Authority of India constituted under section 3;

(h) "Chairperson" means the Chairperson of the Authority appointed under clause (a) of sub-section (3) of section 3;

(i) "civil enclave" means the area, if any, allotted at an airport belonging to any armed force of the Union, for use by persons availing of any air transport services from such airport or for the handling of baggage or cargo by such service, and includes land comprising of any building and structure on such area;

(j) "heliport" means an area, either at ground level or elevated on a structure, used or intended to be used for the landing and take off of helicopters and includes any area for parking helicopters and all buildings and structures thereon or appertaining thereto;

(k) "International Airports Authority" means the International Airports Authority of India constituted under section 3 of the International Airports Authority Act, 1971; 43 of 1971.

(l) "member" means a member of the Authority and includes the Chairperson, but does not include, for the purposes of sections 4, 5, 6 and 7, an *ex-officio* member referred to in clause (b) of sub-section (3) of section 3;

(m) "National Airports Authority" means the National Airports Authority constituted under section 3 of the National Airports Authority Act, 1985; 64 of 1985.

(n) "prescribed" means prescribed by rules made under this Act;

(o) "regulations" means regulations made under this Act.

CHAPTER II

The Airports Authority of India

3. *Constitution and incorporation of the Authority.*— (1) With effect from the appointed day, the Central Government shall, by notification in the Official Gazette, constitute an authority to be called the Airports Authority of India.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) *The Authority shall consist of—*

(a) a Chairperson to be appointed by the Central Government;

(b) the Director General of Civil Aviation, or an officer not below the rank of the Deputy Director General of Civil Aviation, to be appointed by the Central Government, *ex-officio*;

(c) not less than eight and not more than fourteen members to be appointed by the Central Government.

(4) The Chairperson shall be a whole-time member and other members referred to in clause (c) of sub-section (3) may be appointed as whole-time or part-time members as the Central Government may think fit.

(5) The Chairperson and the members referred to in clause (c) of sub-section (3) shall be chosen from among persons who have special knowledge and experience in air transport or any other transport services, industry, commercial or financial matters or administration and from among persons who are capable of representing organisations of workers and consumers.

4. *Disqualification for office of member.*— A person shall be disqualified for being appointed as a member if he —

(a) has been convicted and sentenced to imprisonment for an offence, which, in the opinion of the Central Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or

(e) has in the opinion of the Central Government such financial or other interest in the Authority as is likely to affect prejudicially the discharge by him of his functions as a member.

5. *Term of office and conditions of service of members.*— (1) Subject to the provisions of section 6,—

(i) every whole-time member (other than the *ex-officio* member) shall hold office for a period of five years from the date on which he assumes office or till he attains the age of sixty years, whichever is earlier, and

(ii) every part-time member (other than the *ex-officio* member) shall hold office for a period of three years from the date on which he assumes office;

Provided that the Central Government may —

(a) terminate the appointment of any whole-time member, who is not a servant of the Government, after giving him notice for a period of not less than three months or, in lieu thereof, on payment of an amount equal to his salary and allowances, if any, for a period of three months;

(b) terminate the appointment of any part-time member who is not a servant of the Government after giving him notice for such period as may be prescribed; and

(c) terminate at any time the appointment of any member who is a servant of the Government.

(2) The other conditions of service of the members shall be such as may be prescribed.

(3) Any member may resign his office by giving notice in writing for such period as may be prescribed, to the Central Government and, on such resignation being notified in the Official Gazette by that Government, such member shall be deemed to have vacated his office.

6. *Vacation of office of member.*— The Central Government shall remove a member if he —

(a) becomes subject to any of the disqualifications mentioned in section 4:

Provided that no member shall be removed on the ground that he has become subject to the disqualification mentioned in clause (e) of that section, unless he has been given a reasonable opportunity of being heard in the matter; or

(b) refuses to act or becomes incapable of acting; or

(c) is, without obtaining leave of absence from the Authority, absents from three consecutive meetings of the Authority; or

(d) in the opinion of the Central Government, has so abused his position as to render his continuance in office detrimental to the public interest:

Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

7. *Eligibility of member for re-appointment.*— Any person ceasing to be a member shall, unless disqualified under section 4, be eligible for re-appointment,

8. *Meetings.*— (1) The Authority shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of the business at its meetings (including the quorum at such meetings) as may be provided by regulations.

(2) The Chairperson, or, if for any reason he is unable to attend any meeting of the Authority, any other member chosen by the members present at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of the votes of the members present and voting, and, in the event of an equality of votes, the Chairperson, or in his absence, the person presiding, shall have and exercise a second or casting vote.

9. *Vacancies, etc., not to invalidate proceedings of the Authority.*— No act or proceeding of the Authority shall be invalid merely by reason of —

(a) any vacancy in, or any defect in the constitution of, the Authority; or

(b) any defect in the appointment of a person acting as a member of the Authority; or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

10. *Appointment of officers and other employees of the Authority.*— (1) For the purpose of enabling it efficiently to discharge its functions under this Act, the Authority shall, subject to the provisions of section 18 and to such rules as may be made in this behalf, appoint (whether on deputation or otherwise) such number of officers and other employees as it may consider necessary:

Provided that the appointment of such category of officers, as may be specified after consultation with the Chairperson in such rules, shall be subject to the approval of the Central Government.

(2) Subject to the provisions of section 18, every officer or other employee appointed by the Authority shall be subject to such conditions of service and shall be entitled to such remuneration as may be determined by regulations.

11. *Authority to act on business principles.*— In the discharge of its functions under this Act, the Authority shall act, so far as may be, on business principles.

CHAPTER III

Functions of the Authority

12. *Functions of the Authority.*— (1) Subject to the rules, if any, made by the Central Government in this behalf, it shall be the function of the Authority to manage the airports, the civil enclaves and the aeronautical communication stations efficiently.

(2) It shall be the duty of Authority to provide air traffic service and air transport service at any airport and civil enclaves.

(3) Without prejudice to the generality of the provisions contained in sub-sections (1) and (2), the Authority may —

(a) Plan, develop, construct and maintain runways, taxiways, aprons and terminals and ancillary buildings at the airports and civil enclaves;

(b) plan, procure, instal and maintain navigational aids, communication equipment, beacons and ground aids at the airports and at such locations as may be considered necessary for safe navigation and operation of aircrafts;

(c) provide air safety services and search and rescue facilities in co-ordination with other agencies;

(d) establish schools or institutions or centres for the training of its officers and employees in regard to any matter connected with the purposes of this Act;

(e) construct residential buildings for its employees;

(f) establish and maintain hotels, restaurants and restrooms at or near the airports;

(g) establish warehouses and cargo complexes at the airports for the storage or processing of goods;

(h) arrange for postal, money exchange, insurance and telephone facilities for the use of passengers and other persons at the airports and civil enclaves;

(i) make appropriate arrangements for watch and ward at the airports and civil enclaves;

(j) regulate and control the plying of vehicles, and the entry and exit of passengers and visitors, in the airports and civil enclaves with due regard to the security and protocol functions of the Government of India;

(k) develop and provide consultancy, construction or management services, and undertake operations in India and abroad in relation to airports, air-navigation services, ground aids and safety services or any facilities thereat;

(l) establish and manage heliports and airstrips;

(m) provide such transport facility as are, in the opinion of the Authority, necessary to the passengers travelling by air;

(n) form one or more companies under the Companies Act, 1956 or under any other law relating to companies to further the efficient discharge of the functions imposed on it by this Act;

(o) take all such steps as may be necessary or convenient for, or may be incidental to, the exercise of any power or the discharge of any function conferred or imposed on it by this Act;

(p) perform any other function considered necessary or desirable by the Central Government for ensuring the safe and efficient operation of aircraft to, from and across the air space of India;

(q) establish training institutes and workshops;

(r) any other activity at the airports and the civil enclaves in the best commercial interests of the Authority including cargo handling, setting up of joint ventures for the discharge of any function assigned to the Authority.

(4) In the discharge of its functions under this section, the Authority shall have due regard to the development of air transport service and to the efficiency, economy and safety of such service.

(5) Nothing contained in this section shall be construed as —

(a) authorising the disregard by the Authority of any law for the time being in force; or

(b) authorising any person to institute any proceeding in respect of duty or liability to which the Authority or its officers or other employees would not otherwise be subject.

CHAPTER IV

Property and Contract

13. *Undertakings of the International Airports Authority and the National Airports Authority to vest in the Authority.*— (1) On and from the appointed day, there shall be transferred to, and vest in, the Authority constituted under section 3, the undertakings of the International Airports Authority and the National Airports Authority.

(2) The undertaking of the International Airports Authority or the National Airports Authority which is transferred to, and which vests in, the Authority under sub-section (1) shall be deemed to include all assets, rights, powers, authorities and privileges and all property movable and immovable, real or personal, corporeal or incorporeal, present or contingent, of whatever nature and wheresoever situate, including lands, buildings, machinery, equipments, works, workshops, cash balances, capital, reserves, reserve funds, investments, tenancies, leases and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession or power of the International Airports Authority, or as the case may be, the National Airports Authority, in relation to its undertaking, whether within or outside India, all books of account and documents relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the International Airports Authority, or as the case may be, the National Airports Authority in relation to its undertaking.

14. *General effect of vesting of undertaking in the Authority.*—

(1) All contracts, agreements and working arrangements subsisting immediately before the appointed day and affecting the International Airports Authority, or as the case may be, the National Airports Authority shall, in so far as they relate to the International Airports Authority, or as the case may be, the National Airports Authority cease to have effect or be enforceable against the International Airports Authority, or as the case may be, the National Airports Authority and shall be of as full force and effect against or in favour of the Authority in which the undertakings have vested by virtue of this Act and enforceable as fully and effectually as if, instead of the International Airports Authority, or as the case may be, the National Airports Authority, the Authority had been named therein or had been a party thereto.

(2) Any proceeding, suit or cause of action pending or existing immediately before the appointed day by or against the International Airports Authority or the National Airports Authority in relation to its undertakings may, as from that day, be continued and enforced by or against the Authority in which it has vested by virtue of this Act, as it might have been enforced by or against the International Airports Authority or the National Airports Authority if this Act had not been passed, and shall cease to be enforceable by or against the International Airports Authority, or as the case may be, the National Airports Authority.

15. *Licences, etc., to be deemed to have been granted to the Authority.*— With effect from the appointed day, all licences, permits, quotas and exemptions, granted to the International Airports Authority or the National Airports Authority in connection with the affairs and business of the International Airports Authority, or as the case may be, the National Airports Authority, under any law for the time being in force, shall be deemed to have been granted to the Authority in which the undertakings of the International Airports Authority and the National Airports Authority have vested by virtue of this Act.

16. *Tax exemption or benefit to continue to have effect.*— (1) Where any exemption from, or any assessment with respect to, any tax has been granted or made or any benefit by way of set off or carry forward, as the case may be, of any unabsorbed depreciation or investment allowance or other allowance or loss has been extended or is available to

the International Airports Authority or the National Airports Authority, under the Income-tax Act, 1961, 43 of 1961 such exemption, assessment or benefit shall continue to have effect in relation to the Authority in which the undertakings of the International Airports Authority and the National Airports Authority have vested by virtue of this Act.

(2) Where any payment made by the International Airports Authority or the National Airports Authority is exempt from deduction of the tax at source under any provision of the Income-tax Act, 1961, the 43 of 1961 exemption from tax will continue to be available as if the provisions of the said Act made applicable to the International Airports Authority or the National Airports Authority were operative in relation to the Authority in which the undertakings of the International Airports Authority and the National Airports Authority have vested by virtue of this Act.

(3) The transfer and vesting of the undertakings or any part thereof in terms of section 13 shall not be construed as a transfer within the meaning of the Income-tax Act, 1961 for the purposes of capital 43 of 1961 gains.

17. *Guarantee to be operative.*— Any guarantee given for or in favour of the International Airports Authority or the National Airports Authority with respect to any loan or lease finance shall continue to be operative in relation to the Authority in which the undertakings of the International Airports Authority and the National Airports Authority have vested by virtue of this Act.

18. *Provisions in respect of officers and other employees of the International Airports Authority and the National Airports Authority.*—(1) (a) Every officer or other employee of the International Airports Authority serving in its employment immediately before the appointed day shall, in so far as such officer or other employee is employed in connection with the undertaking which has vested in the Authority by virtue of this Act, becomes, as from the appointed day, an officer or, as the case may be, other employee of the International Airports Division of the Authority.

(b) Every officer or other employee of the National Airports Authority serving in its employment immediately before the appointed day shall, in so far as such officer or other employee is employed in connection with the undertaking which has vested in the Authority by virtue of this Act, becomes, as from the appointed day, an officer or, as the case may be, other employee of the National Airports Division of the Authority.

(2) Every officer or other employee of the International Airports Authority or the National Airports Authority who becomes an officer or, as the case may be, other employee of the Authority, as referred to in sub-section (1), shall hold his office or service therein by the same tenure, at the same remuneration, upon the same terms and conditions with the same obligations and the same rights and privileges as to leave, passage, insurance, superannuation scheme, provident fund, other funds, retirement, pension, gratuity and other benefits as he would have held under the International Airports Authority or, as the case may be, the

National Airports Authority if its undertaking had not vested in the Authority and shall continue to do so as an officer or other employee, as the case may be, of the Authority or until the expiry of a period of one year from the appointed day if such officer or other employee opts not to be the officer or other employee of the Authority within such period:

Provided that if the Authority thinks it expedient to extend the period so fixed, it may extend the same up to a maximum period of one year.

(3) Where an officer or other employee of the International Airports Authority or the National Airports Authority opts under sub-section (2) not to be in the employment or service of the Authority in which the undertakings of the International Airports Authority and the National Airports Authority have vested, such officer or other employee shall be deemed to have resigned from the respective cadre.

(4) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for 14 of 1947 the time being in force, the transfer of the services of any officer or other employee of the International Airports Authority or the National Airports Authority to the Authority shall not entitle such officer or other employee to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(5) The officers and other employees who have retired before the appointed day from the service of the International Airports Authority or the National Airports Authority and are entitled to any benefits, rights or privileges shall be entitled to receive the same benefits, rights or privileges from the Authority in which the undertaking of the International Airports Authority and the National Airports Authority have vested.

(6) The trusts of the Provident Fund and Group Insurance and Superannuation Scheme of the International Airports Authority or the National Airports Authority and any other bodies created for the welfare of officers or employees would continue to discharge their functions in the Authority as was being done hitherto in the International Airports Authority or the National Airports Authority and tax exemption granted to Provident Fund or Group Insurance and Superannuation Scheme would continue to be applied to the Authority.

(7) After the expiry of the period of one year, or the extended period, as referred to in sub-section (2), all the officers and other employees transferred and appointed to the Authority, other than those opting not to be the officers or employees of the Authority within such period, shall be governed by the rules and regulations made by the Authority in respect of the service conditions of the officers and other employees of the said Authority.

19. *Compulsory acquisition of land for the Authority.*— Any land required by the Authority for the discharge of its functions under this Act shall be deemed to be needed for a public purpose and such land may be acquired for the Authority under the provisions of the Land Acquisition Act, 1894 or of any 1 of 1894 other corresponding law for the time being in force.

20. *Contracts by the Authority.*— Subject to the provisions of section 21, the Authority shall be competent to enter into perform any contract necessary for the discharge of its functions under this Act.

21. *Mode of executing contracts on behalf of the Authority.*— (1) Every contract shall, on behalf of the Authority, be made by the Chairperson or such other member or such officer of the Authority as may be generally or specially empowered in this behalf by the Authority and such contracts or class of contracts as may be specified in the regulations shall be sealed with the common seal of the Authority:

Provided that no contract exceeding such value or amount as the Central Government may, from time to time, by order, fix in this behalf shall be made unless it has been previously approved by the Authority:

Provided further that no contract for the acquisition or sale of immovable property or for the lease of any such property for a term exceeding thirty years and no other contract exceeding such value or amount as the Central Government may, from time to time, by order, fix in this behalf shall be made unless it has been previously approved by the Central Government.

(2) Subject to the provisions of sub-section (1), the form and manner in which any contract shall be made under this Act shall be such as may be specified by regulations.

(3) No contract which is not in accordance with the provisions of this Act and the regulations shall be binding on the Authority.

CHAPTER V

Finance, Accounts and Audit

22. *Power of the Authority to charge fees, rent, etc.*— The Authority may,—

(i) with the previous approval of the Central Government, charge fees or rent—

(a) for the landing, housing or parking of aircraft or for any other service or facility offered in connection with aircraft operations at any airport, heliport or airstrip;

Explanation.— In this sub-clause “aircraft” does not include an aircraft belonging to any armed force of the Union and “aircraft operations” does not include operations of any aircraft belonging to the said force;

(b) for providing air traffic services, ground safety services, aeronautical communications and navigational aids and meteorological services at any airport and at any aeronautical communications station;

(c) for the amenities given to the passengers and visitors at any airport, civil enclave, heliport or airstrip;

(d) for the use and employment by persons of facilities and other services provided by the Authority at any airport, civil enclave, heliport or airstrip;

(ii) with due regard to the instructions that the Central Government may give to the Authority, from time to time, charge fees or rent from persons who are given by the Authority any facility for carrying on any trade or business at any airport, heliport or airstrip.

23. *Additional capital and grant to the Authority by the Central Government.*— The Central Government may, after due appropriation made by Parliament, by law in this behalf,—

(a) provide any capital that may be required by the Authority for the discharge of its functions under this Act or for any purpose connected therewith on such terms and conditions as that Government may determine;

(b) pay to the Authority, on such terms and conditions as the Central Government may determine, by way of loans or grants such sums of money as that Government may consider necessary for the efficient discharge by the Authority of its functions under this Act.

24. *Fund of the Authority and its investment.*— (1) The Authority shall have its own fund and all receipts of the Authority shall be credited thereto and all payments of the Authority shall be made therefrom.

(2) The Authority shall have power, subject to the provisions of this Act, to spend such sums as it thinks fit to cover all administrative expenses of the Authority and on objects or for purposes authorised by this Act and such sums shall be treated as expenditure out of the fund of the Authority.

(3) All moneys standing at the credit of the Authority which cannot immediately be applied as provided in sub-section (2), shall be —

(a) deposited in the State Bank of India or any such Scheduled bank or banks or other public financial institutions subject to such conditions as may, from time to time, be specified by the Central Government; and

(b) invested in the securities of the Central Government or in such manner as may be prescribed.

Explanation.— In this sub-section, “Scheduled bank” has the same meaning as in clause (e) of section 2 of the Reserve Bank of India Act, 1934. 2 of 1934

25. *Allocation of surplus funds.*— (1) The Authority may, from time to time, set apart such amounts as it thinks fit as a reserve fund or funds for the purpose of expanding existing facilities or services or creating new facilities or services at any airport, civil enclave, heliport or airstrip or for the purpose of providing against any temporary decrease of revenue or increase of expenditure from transient causes or for purposes of replacement, or for meeting expenditure arising from loss or damage from fire, cyclone, air-crash or other accident or for meeting any liability arising out of any act or commission in the discharge of its functions under this Act:

Provided that without prejudice to the right of the Authority to establish specific reserves for one or more specific purposes, the

Authority shall also have the power, to establish a general reserve:

Provided further that the sums set apart annually in respect of each or any of the specific and general reserves and the aggregate at any time of such sums shall not exceed such limits as may, from time to time, be fixed in that behalf by the Central Government.

(2) After making provision for such reserve fund or funds and for bad and doubtful debts, depreciation in assets and all other matters which are usually provided for by companies registered and incorporated under the Companies Act, 1956, the Authority shall pay the 1 of 1956. balance of its annual net profits to the Central Government.

26. *Submission of programme of activities and financial estimates.*— (1) The Authority shall, before the commencement of each financial year, prepare a statement of the programme of its activities during the forthcoming financial year as well as financial estimate in respect thereof.

(2) The statement prepared under sub-section (1) shall, not less than three months before the commencement of each financial year, be submitted for approval to Central Government.

(3) The statement and the financial estimates of the Authority may, with the approval of the Central Government, be revised by the Authority.

27. *Borrowing powers of the Authority.*— (1) The Authority may, with the consent of the Central Government or in accordance with the terms of any general or special authority given to it by the Central Government, borrow money from any source by the issue of bonds, debentures or such other instruments as it may deem fit for discharging all or any of its functions under this Act.

(2) The Central Government may guarantee in such manner as it thinks fit, the repayment of the principal and the payment, of interest thereon with respect to the loans borrowed by the Authority under sub-section (1).

(3) Subject to such limits as the Central Government may, from time to time, lay down, the Authority may borrow temporarily by way of overdraft or otherwise such amounts as it may require for discharging its functions under this Act.

28. *Accounts and Audit.*— (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the profit and loss account and the balance-sheet in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights and privileges

and authority in connection with such audit as the Comptroller and Auditor-General has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers, documents and papers and inspect any of the offices of the Authority.

(4) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before both Houses of Parliament.

CHAPTER VI

Miscellaneous

29. *Submission of annual report.*— (1) The Authority shall, as soon as may be after the end of each financial year, prepare and submit to the Central Government in such form as may be prescribed a report giving an account of its activities during that financial year and the report shall also give an account of the activities which are likely to be undertaken by the Authority during the next financial year.

(2) The Central Government shall cause such report to be laid before both Houses of Parliament as soon as may be after it is submitted.

30. *Delegation.*— The Authority may, by general or special order in writing, delegate to the Chairperson or any other member or to any officer of the Authority, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act, (except the powers under section 42) as it may deem necessary.

31. *Authentication of orders and other instrument of the Authority.*— All orders and decisions of the Authority shall be authenticated by the signature of the Chairperson or any other member authorised by the Authority in this behalf and all other instruments executed by the Authority shall be authenticated by the signature of an officer of the Authority authorised by it in this behalf.

32. *Officers and employees of the Authority to be public servants.*— All officers and employees of the Authority shall, while acting or purporting to act in pursuance of the provisions of this act or of any rule or regulation made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian 45 of 1860 Penal Code.

33. *Protection of action taken in good faith.*— No suit, prosecution or other legal proceeding shall lie against the Authority or any member or any officer or other employee of the Authority for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or regulation made thereunder or for any damage sustained by any aircraft or vehicle in consequence of any defect in any of the airports, civil enclaves, heliports, airstrips, aeronautical communication stations or other things belonging to or under the control of the Authority.

34. *Custody and disposal of lost property.*— Subject to such regulations as the Authority may make in this behalf, the Authority shall provide for securing the safe custody and restoration of any property which, while not in proper custody, is found on any premises belonging to the Authority or under its overall control or in any aircraft on any such premises.

35. *Provisions relating to income-tax.*— For the purposes of the Income-tax Act, 1961 or any other enactment for the time being in force relating to income-tax or any other tax on income, profits or gains, the Authority shall be deemed to be a company within the meaning of the Income-tax Act, 1961 and shall be liable to tax accordingly on its income, profits and gains.

36. *Power of the Authority to undertake certain works.*— The Authority may undertake to carry out on behalf of any person any works or services or any class of works or services on such terms and conditions as may be agreed upon between the Authority and the person concerned.

37. *Power to issue directions.*— (1) The Authority or any officer specially authorised by it in this behalf may, from time to time, by order, issue directions, consistent with the provisions of the Aircraft Act, 1934, and the rules made thereunder, with respect to any of the matters specified in clauses (f), (h), (i), (j), (k), (m), (p), (qq) and (r) of sub-section (2) of section 5 of that Act, to any person or persons engaged in aircraft operations or using any airport, heliport, airstrip or civil enclave, in any case where the Authority or the officer is satisfied that in the interests of the security of India or for securing the security of the aircraft it is necessary to do so.

(2) Every direction issued under sub-section (1) shall be complied with by the person or persons to whom such direction is issued.

(3) If any person wilfully fails to comply with any direction issued under this section, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees, or with both.

38. *Power of the Central Government to temporarily divest the Authority of the management of any airport.*— (1) If, at any time, the Central Government is of opinion that in the public interest it is necessary or expedient so to do, it may, by order, direct the Authority to entrust the administration, management or similar other functions of any airport, heliport, airstrip, civil enclave, aeronautical communication station, or any other agency or department of any airport, heliport, airstrip, civil enclave or aeronautical communication station with effect from such date and to such person as may be specified in the order and the Authority shall be bound to comply with such direction:

Provided that before an order is made under this sub-section the Authority shall be given a reasonable opportunity of being heard in the matter.

(2) Where the management of any airport, heliport, airstrip, civil enclave or aeronautical communication station or any other

agency or department thereof is entrusted to any person specified under sub-section (1) (hereafter referred to in this section as the authorised person), the Authority shall cease to exercise and discharge all its powers and functions under this Act in relation to such airport, heliport, airstrip, civil enclave or aeronautical communication station or any other agency or department thereof and such powers and functions shall be exercised and discharged by the authorised person in accordance with the instructions, if any, which the Central Government may give to the authorised person from time to time:

Provided that no such power or function as may be specified by the Central Government by a general or special order shall be exercised or discharged by the authorised person except with the previous sanction of the Central Government.

(3) An order made under sub-section (1) shall, unless rescinded, be in operation for a period of six months from the date on which the management of the airport, heliport, airstrip, civil enclave or aeronautical communication station or any other agency or department thereof is entrusted to the authorised person:

Provided that the Central Government may extend such period for a further period or periods not exceeding eighteen months.

(4) During the operation of an order made under sub-section (1), it shall be competent for the Central Government to issue, from time to time, such directions to the Authority as are necessary to enable the authorised person to exercise the powers and discharge the functions of the Authority under this Act in relation to the airport, heliport, airstrip, civil enclave or aeronautical communication station, or any other agency or department thereof the management of which has been entrusted to him and in particular to transfer any sum of money from the fund of the Authority to the authorised person for the management of the airport, heliport, airstrip, civil enclave or aeronautical communication station or any other agency or department thereof and every such direction shall be complied with by the Authority.

(5) On the cesser of operation of any order made under sub-section (1) in relation to any airport, heliport, airstrip, civil enclave or aeronautical communication station, or any other agency or department thereof the authorised person shall cease to exercise and perform the powers and functions of the Authority under this Act in relation to such airport, heliport, airstrip, civil enclave or aeronautical communication stations or any other agency or department thereof and the Authority shall continue to exercise and perform such powers and functions in accordance with the provisions of this Act.

(6) On the cesser of operation of any order made under sub-section (1) in relation to any airport, heliport, airstrip, civil enclave or aeronautical communication station, or any other agency or department thereof the authorised person shall hand over to the Authority any property (including any sum of money or other asset) remaining with him in connection with the management of such airport, heliport, airstrip, civil enclave or aeronautical communication station.

(7) Anything done or any action taken lawfully by the authorised person in relation to any airport, heliport, airstrip, civil enclave or aeronautical communication station or any other agency or

department thereof during the period of operation of an order made under sub-section (1) shall be deemed to have been done or taken by the Authority and shall be binding on the Authority.

39. *Power of the Central Government to supersede the Authority.*— (1) If, at any time, the Central Government is of opinion —

(a) that on account of a grave emergency, the Authority is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of which default the financial position of the Authority or the administration of any airport, heliport, airstrip, civil enclave or aeronautical communication station has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification in the Official Gazette, supersede the Authority for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing a notification under this sub-section for the reasons mentioned in clause (b), the Central Government shall give a reasonable opportunity to the Authority to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority, shall until the Authority is re-constituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct;

(c) all property owned or controlled by the Authority shall, until the Authority is re-constituted under sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may,

(a) extend the period of supersession for such further term not exceeding six months, as it may consider necessary; or

(b) re-constitute the Authority by fresh appointment and in such case the members who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before both Houses of Parliament at the earliest opportunity.

40. *Power of the Central Government to issue directions.*— (1) Without prejudice to the foregoing provisions of this Act, the Authority shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

(3) The Central Government may, from time to time, issue directions to the Authority regarding the discharge of any functions to it under clause (e) of sub-section (3) of section 12 and the Authority shall be bound to comply with such directions.

41. *Power to make rules.*— (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for —

(a) the period of notice as may be given by the Central Government to terminate the appointment of any part-time member of the Authority under clause (b) of proviso to sub-section (1) of section 5;

(b) the conditions of service of the members of the Authority under sub-section (2) of section 5;

(c) the period of notice as may be given by any member to resign his office under sub-section (3) of section 5;

(d) the provisions subject to which officers and other employees may be appointed by the Authority and the category of officers to be appointed after approval of the Central Government under the proviso to sub-section (1) of section 10;

(e) the provisions subject to which the Authority may manage the airports, civil enclaves and aeronautical communication stations under sub-section (1) of section 12;

(f) the manner in which the Authority may invest its funds under clause (b) of sub-section (3) of section 24;

(g) the form in which the annual statement of accounts shall be prepared by the Authority under sub-section (1) of section 28;

(h) the form in which a report giving an account of its activities shall be prepared and submitted by the Authority to the Central Government under sub-section (1) of section 29; and

(i) any other matter which is to be, or may be, prescribed.

42. *Power to make regulations.*— (1) The Authority may make regulations not inconsistent with this Act and the rules made thereunder to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such regulations may provide for —

(a) the time and places of the meetings of the Authority and the procedure to be followed for the transaction of business including the quorum at such meetings under sub-section (1) of section 8;

(b) the conditions of service and the remuneration of officers and other employees to be appointed by the Authority under sub-section (2) of section 10;

(c) the construction of residential accommodation for the officers and other employees appointed by the Authority under clause (e) of sub-section (3) of section 12;

(d) the storage or processing of goods in any warehouse established by the Authority under clause (g) of sub-section (3) of section 12 and the charging of fees for such storage or processing;

(e) the contracts or class of contracts which are to be sealed with the common seal of the Authority and the form and manner in which a contract may be made by the Authority under sub-section (1) of section 21;

(f) the custody and restoration of lost property and the terms and conditions under which lost property may be restored to the persons entitled thereto under section 34;

(g) the disposal of any lost property in cases where such property is not restored;

(h) securing the safety of aircraft, vehicles and persons using the airport or civil enclave and preventing danger to the public arising from the use and operation of aircraft in the airport or civil enclave;

(i) preventing obstruction within the airport or civil enclave for its normal functioning;

(j) prohibiting the parking or waiting of any vehicle of carriage within the airport or civil enclave except at places specified by the Authority;

(k) prohibiting or restricting access to any part of the airport or civil enclave;

(l) preserving order within the airport or civil enclave and preventing damage to property therein;

(m) regulating or restricting advertising within the airport or civil enclave;

(n) requiring any person, if so directed by an officer appointed by the Authority in this behalf, to leave the airport or civil enclave or any particular part of the airport or civil enclave; and

(o) generally for the efficient and proper management of the airport or civil enclave.

(3) Any regulation made under any of the clauses (h) to (o) (both inclusive) of sub-section (2) may provide that a contravention thereof shall be punishable with fine which may extend to five hundred rupees and in the case of a continuing contravention with an additional fine which may extend to twenty rupees for every day during which such contravention continues after conviction for the first such contravention;

(4) No regulation made by the Authority under this section shall have effect until it has been approved by the Central Government and published in the Official Gazette.

(5) Notwithstanding anything contained in this section, the first regulations under this Act shall be made by the Central Government and shall have effect on being published in the Official Gazette.

(6) The first regulations framed under sub-section (5) shall remain in force until such time the Authority has made regulations and they are published in the Official Gazette.

43. *Rules and regulations to be laid before Parliament.*— Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, as the case may be, or both Houses agree that the rule or regulation, as the case may be, should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

44. *Power to remove difficulties.*— (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by general or special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made after the expiration of one year from the commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or to be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

45. *Amendment of Act 22 of 1934.*— In section 5 of the Aircrafts Act, 1934, in sub-section (2),—

(a) in clause (b), for the words and figures “the International Airports Authority Act, 1971 or the 43 of 1971 National Airports Authority Act, 1985”, the words 64 of 1985 and figures “the Airports Authority of India Act, 1994” shall be substituted;

(b) proviso to clause (b) shall be omitted.

46. *Repeal and saving.*— (1) On and from the appointed date,—

(i) the International Airports Authority Act, 1971 and the National Airports Authority Act, 43 of 1971 1985 shall stand repealed; 64 of 1985

(ii) the International Airports Authority and the National Airports Authority constituted under the aforesaid Acts shall cease to exist.

(2) Notwithstanding such repeal, anything done or any action taken or purported to have been done or taken under the aforesaid Acts so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.

Notification

12-1-94/LA

The Legal Services Authorities (Amendment) Act, 1994 (Central Act, 59 of 1994) which has been passed by the Parliament and assented to by the President of India on 29-10-1994 and published in the Gazette of India, Extraordinary, Part-II, Section 1, dated 31-10-1994 is hereby published for the general information of the public.

P. V. Kadnekar, The Joint Secretary (Law).

Panaji, 25th April, 1995.

**THE LEGAL SERVICES AUTHORITIES (AMENDMENT)
ACT, 1994**

AN

ACT

To amend the Legal Services Authorities Act, 1987.

Be it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

1. *Short title.*— This Act may be called the Legal Services Authorities (Amendment) Act, 1994.

2. *Amendment of section 2.*— In section 2 of the Legal Services Authorities Act, 1987 (hereinafter 39 of 1987 referred to as the principal Act), in sub-section (1),—

(i) for clause (a), the following clauses shall be substituted, namely:—

‘(a) “case” includes a suit or any proceeding before a court;

(aa) “Central Authority” means the National Legal Services Authority constituted under section 3;

(aaa) “court” means a civil, criminal or revenue court and includes any tribunal or any other authority constituted under any law for the time being in force, to exercise judicial or quasijudicial functions;’

(ii) after clause (b), the following clause shall be inserted, namely:—

‘(bb) “High Court Legal Services Committee” means a High Court Legal Services Committee constituted under section 8A;’

(iii) after clause (f), the following clause shall be inserted, namely:—

‘(ff) “means regulations made under this Act;’

(iv) after clause (i), the following clauses shall be inserted, namely:—

‘(j) “Supreme Court Legal Services Committee” means the Supreme Court Legal Services Committee constituted under section 3A;

‘(k) “Taluka Legal Services Committee” means a Taluk Legal Services Committee constituted under section 11A.’

3. *Substitution of new sections for section 3.*— For section 3 of the principal Act, the following sections shall be substituted, namely:—

“3. *Constitution of National Legal Services Authority.*— (1) The Central Government shall constitute a body to be called the National Legal Services Authority to exercise the powers and perform the functions conferred on, or assigned to, the Central Authority under this Act.

(2) The Central Authority shall consist of—

(a) the Chief Justice of India who shall be the Patron-in-Chief;

(b) a serving or retired Judge of the Supreme Court to be nominated by the President, in consultation with the Chief Justice of India, who shall be the Executive Chairman; and

(c) such number of other members, possessing such experience and qualifications, as may be prescribed by the Central Government, to be nominated by that Government in consultation with the Chief Justice of India.

(3) The Central Government shall, in consultation with the Chief Justice of India, appoint a person to be the Member-Secretary of the Central Authority, possessing such experience and qualifications as may be prescribed by that Government, to exercise such powers and perform such duties under the Executive Chairman of the Central Authority as may be prescribed by that Government or as may be assigned to him by the Executive Chairman of that Authority.

(4) The terms of office and other conditions relating thereto, of members and the Member-Secretary of the Central Authority shall be such as may be prescribed by the Central Government in consultation with the Chief Justice of India.

(5) The Central Authority may appoint such number of officers and other employees as may be prescribed by the Central Government, in consultation with the Chief Justice of India, for the efficient discharge of its functions under this Act.

(6) The officers and other employees of the Central Authority shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the Central Government in consultation with the Chief Justice of India.

(7) The administrative expenses of the Central Authority, including the salaries, allowances and pensions payable to the Member-Secretary, officers and other employees of the Central Authority, shall be defrayed out of the Consolidated Fund of India.

(8) All orders and decisions of the Central Authority shall be authenticated by the Member-Secretary or any other officer of the Central Authority duly authorised by the Executive Chairman of that Authority.

(9) No act or proceeding of the Central Authority shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the Central Authority.

3A. Supreme Court Legal Services Committee.— (1) The Central Authority shall constitute a committee to be called the Supreme Court Legal Services Committee for the purpose of exercising such powers and performing such functions as may be determined by regulations made by the Central Authority.

(2) The Committee shall consist of—

(a) a sitting Judge of the Supreme Court who shall be the Chairman; and

(b) such number of other members possessing such experience and qualifications as may be prescribed by the Central Government,

to be nominated by the Chief Justice of India.

(3) The Chief Justice of India shall appoint a person to be the secretary to the Committee, possessing such experience and qualifications as may be prescribed by the Central Government.

(4) The terms of office and other conditions relating thereto of the members and Secretary of the Committee shall be such as may be determined by regulations made by the Central Authority.

(5) The Committee may appoint such number of officers and other employees as may be prescribed by the Central Government, in consultation with Chief Justice of India, for the efficient discharge of its functions.

(6) The officers and other employees of the Committee shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the Central Government in consultation with the Chief Justice of India."

4. Amendment of section 4.— In section 4 of the principal Act,—

(i) in the opening portion, the words, "subject to the general directions of the Central Government", shall be omitted.

(ii) for clause (j), the following clause shall be substituted, namely:—

"(j) provide grants-in-aid for specific schemes to various voluntary social service institutions and the State and District Authorities, from out of the amounts placed at its disposal for the implementation of legal services schemes under the provisions of this Act;";

(iii) in clause (n), for the words "State and District Authorities and other voluntary social welfare institutions", the words "State Authorities, District Authorities, Supreme Court Legal Services Committee, High Court Legal Services Committees, Taluk Legal Services Committees and voluntary social service institutions" shall be substituted.

5. Substitution of new section for section 6.— For section 6 of the principal Act, the following section shall be substituted, namely:—

"6. Constitution of State Legal Services Authority.— (1) Every State Government shall constitute a body to be called the Legal Services Authority for the State to exercise the powers and perform the functions conferred on, or assigned to, a State Authority under this Act.

(2) A State Authority shall consist of—

(a) the Chief Justice of the High Court who shall be the Patron-in-Chief;

(b) a serving or retired Judge of the High Court, to be nominated by the Governor, in consultation with the Chief Justice of the High Court, who shall be the Executive Chairman; and

(c) such number of other members, possessing such experience and qualifications as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice of the High Court.

(3) The State Government shall, in consultation with the Chief Justice of the High Court, appoint a person belonging to the State Higher Judicial Service, no lower in rank than that of a District Judge, as the Member-Secretary of the State Authority, to exercise such powers and perform such duties under the Executive Chairman of the State Authority as may be prescribed by that Government or as may be assigned to him by the Executive Chairman of that Authority:

Provided that a person functioning as Secretary of a State Legal Aid and Advice Board immediately before the date of constitution of the State Authority may be appointed as Member-Secretary of that Authority, even if he is not qualified to be appointed as such under this sub-section, for a period not exceeding five years.

(4) The terms of office and other conditions relating thereto, of members and the Member-Secretary of the State Authority shall be such as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(5) The State Authority may appoint such number of officers and other employees as may be prescribed by the State Government, in consultation with the Chief Justice of the High Court, for the efficient discharge of its functions under this Act.

(6) The officers and other employees of the State Authority shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(7) The administrative expenses of the State Authority, including the salaries, allowances and pensions payable to the member secretary, officers and other employees of the State Authority shall be defrayed out of the Consolidated Fund of the State.

(8) All orders and decisions of the State Authority shall be authenticated by the Member-Secretary or any other officer of the State Authority duly authorised by the Executive Chairman of the State Authority.

(9) No act or proceeding of a State Authority shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of the State Authority."

6. *Amendment of section 7.*— In section 7 of the principal Act, in sub-section (2),—

(i) in clause (b), for the words "Lok Adalats", the words "Lok Adalats, including Lok Adalats for High Court cases" shall be substituted;

(ii) in clause (d), for the words "Central Government", the words "Central Authority" shall be substituted.

7. *Substitution of new sections for sections 8 and 9.*— For sections 8 and 9 of the principal Act, the following sections shall be substituted, namely:—

"8. *State Authority to act in coordination with other agencies, etc., and be subject to directions given by Central Authority.*— In the discharge of its functions the State Authority shall appropriately act in coordination with other governmental agencies, non-governmental voluntary social service institutions, universities

and other bodies engaged in the work of promoting the cause of legal services to the poor and shall also be guided by such directions as the Central Authority may give to it in writing".

8A. *High Court Legal Services Committee.*— (1) The State Authority shall constitute a Committee to be called the High Court Legal Services Committee for every High Court, for the purpose of exercising such powers and performing such functions as may be determined by regulations made by the State Authority.

(2) The Committee shall consist of—

(a) a sitting Judge of the High Court who shall be the Chairman; and

(b) such number of other members possessing such experience and qualifications as may be determined by regulations made by the State Authority,

to be nominated by the Chief Justice of the High Court.

(3) The Chief Justice of the High Court shall appoint a Secretary to the Committee possessing such experience and qualifications as may be prescribed by the State Government.

(4) The terms of office and other conditions relating thereto, of the members and Secretary of the Committee shall be such as may be determined by regulations made by the State Authority.

(5) The Committee may appoint such number of officers and other employees as may be prescribed by the State Government in consultation with the Chief Justice of the High Court for the efficient discharge of its functions.

(6) The officers and other employees of the Committee shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

9. *District Legal Services Authority.*— (1) The State Government shall, in consultation with the Chief Justice of the High Court, constitute a body to be called the District Legal Services Authority for every District in the State to exercise the powers and perform the functions conferred on, or assigned to, the District Authority under this Act.

(2) A District Authority shall consist of—

(a) the District Judge who shall be its Chairman; and

(b) such number of other members, possessing such experience and qualifications, as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice of the High Court.

(3) The State Authority shall, in consultation with the Chairman of the District Authority, appoint a person belonging to the State Judicial Service not lower in rank than that of a Subordinate Judge or Civil Judge posted at the seat of the District Judiciary as Secretary of the District Authority to exercise such powers and perform such duties under the Chairman of that Committee as may be assigned to him by such Chairman.

(4) The terms of office and other conditions relating thereto, of members and Secretary of the District Authority shall be such as may be determined by regulations made by the State Authority in consultation with the Chief Justice of the High Court.

(5) The District Authority may appoint such number of officers and other employees as may be prescribed by the State Government in consultation with the Chief Justice of the High Court for the efficient discharge of its functions.

(6) The officers and other employees of the District Authority shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(7) The administrative expenses of every District Authority, including the salaries, allowances and pensions payable to the Secretary, officers and other employees of the District Authority shall be defrayed out of the Consolidated Fund of the State.

(8) All orders and decisions of the District Authority shall be authenticated by the Secretary or by any other officer of the District Authority duly authorised by the Chairman of that Authority.

(9) No act or proceeding of a District Authority shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the District Authority.”

8. *Amendment of section 10.*— In section 10 of the principal Act, in sub-section (2),—

(i) for clause (a), the following clause shall be substituted, namely:—

“(a) coordinate the activities of the Taluk Legal Services Committee and other legal services in the District;”

(ii) in clause (c), the words, “in consultation with the State Government”, shall be omitted.

9. *Insertion of new sections 11A and 11B.*— After section 11 of the principal Act, the following sections shall be inserted, namely:—

“11A. *Taluk Legal Services Committee.*— (1) The State Authority may constitute a Committee, to be called the Taluk Legal Services Committee, for each taluk or mandal or for group of taluks or mandals.

(2) The Committee shall consist of—

(a) the senior Civil Judge operating within the jurisdiction of the Committee who shall be the *ex-officio* Chairman; and

(b) such number of other members, possessing such experience and qualifications as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice of the High Court.

(3) The Committee may appoint such number of officers and other employees as may be prescribed by the State Government in consultation with the Chief Justice of the High Court for the efficient discharge of its functions.

(4) The officers and other employees of the Committee shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(5) The administrative expenses of the Committee shall be defrayed out of the District Legal Aid Fund by the District Authority.

11B. *Functions of Taluk Legal Services Committee.*— The Taluk Legal Services Committee may perform all or any of the following functions, namely:—

(a) coordinate the activities of legal services in the taluk;

(b) organise Lok Adalats within the taluk; and

(c) perform such other functions as the District Authority may assign to it.”

10. *Amendment of section 12.*— In section 12 of the principal Act, for clause (h), the following clause shall be substituted, namely:—

“(h) in receipt of annual income less than rupees nine thousand or such other higher amount as may be prescribed by the State Government, if the case is before a court other than the Supreme Court, and less than rupees twelve thousand or such other higher amount as may be prescribed by the Central Government, if the case is before the Supreme Court.”

11. *Amendment of section 15.*— In section 15 of the principal Act, in sub-section (2), for clause (b), the following clauses shall be substituted, namely:—

“(b) the cost of legal services provided by the Supreme Court Legal Services Committee;

(c) any other expenses which are required to be met by the Central Authority.”

12. *Amendment of section 16.*— In section 16 of the principal Act, in sub-section (2), for clause (b), the following clauses shall be substituted, namely:—

“(b) the cost of legal services provided by the High Court Legal Services Committee;

(c) any other expenses which are required to be met by the State Authority.”

13. *Amendment of section 17.*— In section 17 of the principal Act,—

(i) in sub-section (1), for clause (b), the following clause shall be substituted, namely:—

“(b) any grants or donations that may be made to the District Authority by any person, with the prior approval of the State Authority, for the purposes of this Act;”

(ii) in sub-section (2), in clause (a), after the figures “10”, the word, figures and letter “and 11B” shall be inserted.

14. *Amendment of section 18.*— In section 18 of the principal Act, after sub-section (4), the following sub-sections shall be inserted, namely:—

“(5) The Central Government shall cause the accounts and the audit report received by it under sub-section (4) to be laid, as soon as may be after they are received, before each House of Parliament.

(6) The State Government shall cause the accounts and the audit report received by it under sub-section (4) to be laid, as soon as may be after they are received, before the State Legislature.”.

15. *Substitution of new sections for sections 19 and 20.*— For sections 19 and 20 of the principal Act, the following sections shall be substituted, namely:—

“19. *Organisation of Lok Adalats.*—(1) Every State Authority or District Authority or the Supreme Court Legal Services Committee or every High Court Legal Services Committee or, as the case may be, Taluk Legal Services Committee may organise Lok Adalats at such intervals and places and for exercising such jurisdiction and for such areas as it thinks fit.

(2) Every Lok Adalat organised for an area shall consist of such number of—

(a) serving or retired judicial officers; and

(b) other persons,

of the area as may be specified by the State Authority or the District Authority or the Supreme Court Legal Services Committee or the High Court Legal Services Committee, or as the case may be, the Taluk Legal Services Committee, organising such Lok Adalat.

(3) The experience and qualifications of other persons referred to in clause (b) of sub-section (2) for Lok Adalats organised by the Supreme Court Legal Services Committee shall be such as may be prescribed by the Central Government in consultation with the Chief Justice of India.

(4) The experience and qualifications of other persons referred to in clause (b) of sub-section (2) for Lok Adalats other than referred to in sub-section (3) shall be such as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(5) A Lok Adalat shall have jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of—

(i) any case pending before; or

(ii) any matter which is falling within the jurisdiction of, and is not brought before,

any court for which the Lok Adalat is organised:

Provided that the Lok Adalat shall have no jurisdiction in respect of any case or matter relating to an offence not compoundable under any law.

20. *Cognizance of cases by Lok Adalats.*— (1) Where in any case referred to in clause (i) of sub-section (5) of section 19,—

(i) (a) the parties thereof agree; or

(b) one of the parties thereof makes an application to the court,

for referring the case to the Lok Adalat for settlement and if such court is prima facie satisfied that there are chances of such settlement; or

(ii) the court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat,

the court shall refer the case to the Lok Adalat:

Provided that no case shall be referred to the Lok Adalat under sub-clause (b) of clause (i) or clause (ii) by such court except after giving a reasonable opportunity of being heard to the parties.

(2) Notwithstanding anything contained in any other law for the time being in force, the Authority or Committee organising the Lok Adalat under sub-section (1) of section 19 may, on receipt of an application from any one of the parties to any matter referred to in clause (ii) of sub-section (5) of section 19 that such matter needs to be determined by a Lok Adalat, refer such matter to the Lok Adalat, for determination:

Provided that no matter shall be referred to the Lok Adalat except after giving a reasonable opportunity of being heard to the other party.

(3) Where any case is referred to a Lok Adalat under sub-section (1) or where a reference has been made to it under sub-section (2), the Lok Adalat shall proceed to dispose of the case or matter and arrive at a compromise or settlement between the parties.

(4) Every Lok Adalat shall, while determining any reference before it under this Act, act with utmost expedition to arrive at a compromise or settlement between the parties and shall be guided by the principles of justice, equity, fair play and other legal principles.

(5) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, the record of the case shall be returned by it to the court, from which the reference has been received under sub-section (1) for disposal in accordance with law.

(6) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, in a matter referred to in sub-section (2), that Lok Adalat shall advise the parties to seek remedy in a court.

(7) Where the record of the case is returned under sub-section (5) to the court, such court shall proceed to deal with such case from the stage which was reached before such reference under sub-section (1).”.

16. *Amendment of section 21.*— In section 21 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Every award of the Lok Adalat shall be deemed to be a decree of a civil court or, as the case may be, an order of any other court and where a compromise or settlement has been arrived at, by a Lok Adalat in a case referred to it under sub-section (1) of section 20, the court-fee paid in such case shall be refunded in the manner provided under the Court-fees Act, 1870. 7 of 1870.

17. *Substitution of new sections for sections 23 and 24.*— For sections 23 and 24 of the principal Act, the following sections shall be substituted, namely:—

“23. *Members and staff of Authorities, Committees and Lok Adalats to be public servants.*— The members including Member-Secretary or, as the case may be, Secretary of the Central Authority, the State Authorities, the District Authorities, the Supreme Court Legal Services Committee, High Court Legal Services Committees, Taluk Legal Services Committees and officers and other employees of such Authorities, Committees and the members of the Lok Adalat shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

24. *Protection of action taken in good faith.*— No suit, prosecution or other legal proceeding shall lie against—

- (a) the Central Government or the State Government;
- (b) the Patron-in-Chief, Executive Chairman, members or Member-Secretary or officers or other employees of the Central Authority;
- (c) Patron-in-Chief, Executive Chairman, member, Member-Secretary or officers or other employees of the State Authority;
- (d) Chairman, Secretary, members or officers or other employees of the Supreme Court Legal Services Committee, High Court Legal Services Committee, Taluk Legal Services Committees or the District Authority; or
- (e) any other person authorised by any of the Patron-in-Chief, Executive Chairman, Chairman, member, Member-Secretary referred to in sub-clauses (b) to (d),

for anything which is in good faith done or intended to be done under the provisions of this Act or any rule or regulation made thereunder.”

18. *Substitution of new sections for sections 27, 28 and 29.*— For sections 27, 28 and 29 of the principal Act, the following sections shall be substituted, namely:—

“27. *Power of Central Government to make rules.*— (1) The Central Government in consultation with the Chief Justice of India may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the number, experience and qualifications of other members of the Central Authority under clause (c) of sub-section (2) of section 3;
- (b) the experience and qualifications of the Member-Secretary of the Central Authority and his powers and functions under sub-section (3) of section 3;
- (c) the terms of office and other conditions relating them to, of members and Member-Secretary of the Central Authority under sub-section (4) of section 3;
- (d) the number of officers and other employees of the Central Authority under sub-section (5) of section 3;
- (e) the conditions of service and the salary and allowances of officers and other employees of the Central Authority under sub-section (6) of section 3;
- (f) the number, experience and qualifications of members of the Supreme Court Legal Services Committee under clause (b) of sub-section (2) of section 3A;
- (g) the experience and qualifications of Secretary of the Supreme Court Legal Services Committee under sub-section (3) of section 3A;
- (h) the number of officers and other employees of the Supreme Court Legal Services Committee under sub-section (5) of section 3A and the conditions of service and the salary and allowances payable to them under sub-section (6) of that section;
- (i) the upper limit of annual income of a person entitling him to legal services under clause (h) of section 12, if the case is before the Supreme Court;
- (j) the manner in which the accounts of the Central Authority, the State Authority or the District Authority shall be maintained under section 18;
- (k) the experience and qualifications of other persons of the Lok Adalats organised by the Supreme Court Legal Services Committee specified in sub-section (3) of section 19;
- (l) other matters under clause (e) of sub-section (1) of section 22;
- (m) any other matter which is to be, or may be, prescribed.

28. *Power of State Government to make rules.*— (1) The State Government in consultation with the Chief Justice of the High Court may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the number, experience and qualifications of other members of the State Authority under clause (c) of sub-section (2) of section 6;

(b) the powers and functions of the Member-Secretary of the State Authority under sub-section (3) of section 6;

(c) the terms of office and other conditions relating thereto, of members and Member-Secretary of the State Authority under sub-section (4) of section 6;

(d) the number of officers and other employees of the State Authority under sub-section (5) of section 6;

(e) the conditions of service and the salary and allowances of officers and other employees of the State Authority under sub-section (6) of section 6;

(f) the experience and qualifications of Secretary of the High Court Legal Services Committee under sub-section (3) of section 8A;

(g) the number of officers and other employees of the High Court Legal Services Committee under sub-section (5) of section 8A and the conditions of service and the salary and allowances payable to them under sub-section (6) of that section;

(h) the number, experience and qualifications of members of the District Authority under clause (b) of sub-section (2) of section 9;

(i) the number of officers and other employees of the District Authority under sub-section (5) of section 9;

(j) the Conditions of service and the salary and allowances of the officers and other employees of the District Authority under sub-section (6) of section 9;

(k) the number, experience and qualifications of members of the Taluk Legal Services Committee under clause (b) of sub-section (2) of section 11A;

(l) the number of officers and other employees of the Taluka Legal Services Committee under sub-section (3) of section 11A;

(m) the conditions of service and the salary and allowances of officers and other employees of the Taluk Legal Services Committee under sub-section (4) of section 11A;

(n) the upper limit of annual income of a person entitling him to legal services under clause (h) of section 12, if the case is before a court, other than the Supreme Court;

(o) the experience and qualifications of other persons of the Lok Adalats other than referred to in sub-section (4) of section 19;

(p) any other matter which is to be, or may be, prescribed.

29. *Power of Central Authority to make regulations.*— (1) The Central Authority may, by notification, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purposes of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the powers and functions of the Supreme Court Legal Services Committee under sub-section (1) of section 3A;

(b) the terms of office and other conditions relating thereto, of the members and Secretary of the Supreme Court Legal Services Committee under sub-section (4) of section 3A.

29A. *Power of State Authority to make regulations.*— (1) The State Authority may, by notification, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purposes of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the other functions to be performed by the State Authority under clause (d) of sub-section (2) of section 7;

(b) the powers and functions of the High Court Legal Services Committee under sub-section (1) of section 8A;

(c) the number, experience and qualifications of members of the High Court Legal Services Committee under clause (b) of sub-section (2) of section 8A;

(d) the terms of office and other conditions relating thereto, of the members and Secretary of the High Court Legal Services Committee under sub-section (4) of section 8A;

(e) the terms of office and other conditions relating thereto, of the members and Secretary of the District Authority under sub-section (4) of section 9;

(f) the number, experience and qualifications of members of the High Court Legal Services Committee under clause (b) of sub-section (2) of section 8A;

(g) other functions to be performed by the District Authority under clause (c) of sub-section (2) of section 10;

(h) the terms of office and other conditions relating thereto, of members and Secretary of the Taluk Legal Services Committee under sub-section (3) of section 11A.”

Notification

12-1-94/LA

The Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (Central Act 57 of 1994) which has been passed by the Parliament and assented to by the President of India on 20/9/1994 and published in the Gazette of India, Extraordinary, Part-II, Section 1, dated 29/9/1994 is hereby published for the general information of the public.

P. V. Kadnekar, Joint Secretary (Law).

Panaji, 25th April, 1995.

**THE PRE-NATAL DIAGNOSTIC TECHNIQUES
(REGULATION AND PREVENTION OF MISUSE) ACT,
1994**

Arrangement of Sections

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3. Regulation of Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics.

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**THE PRE-NATAL DIAGNOSTIC TECHNIQUES
(REGULATION AND PREVENTION OF MISUSE) ACT,
1994**

AN

ACT

to provide for the regulation of the use of pre-natal diagnostic techniques for the purpose of detecting genetic or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex-linked disorders and for the prevention of the misuse of such techniques for the purpose of pre-natal sex determination leading to female foeticide; and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty fifth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*—(1) This Act may be called the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994.

(2) It shall extend to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the central Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) “Appropriate Authority” means the Appropriate Authority appointed under section 17;

(b) “Board” means the Central Supervisory Board constituted under section 7;

(c) “Genetic Counselling Centre” means an Institute, hospital, nursing home or any place, by whatever name called, which provides for genetic counselling to patients;

(d) “Genetic Clinic” means a clinic, institute, hospital, nursing home or any place, by whatever name called, which is used for conducting pre-natal diagnostic procedure;

(e) “Genetic Laboratory” means a Laboratory and includes a place where facilities are provided for conducting analysis or tests of samples received from Genetic Clinic for pre-natal diagnostic test;

(f) “gynaecologist” means a person who possesses a post-graduate qualification in gynaecology and obstetrics;

(g) “medical geneticist” means a person who possesses a degree or diploma or certificate in medical genetic in the field of pre-natal diagnostic techniques or has experience of not less than two years in such field after obtaining—

(i) any one of the medical qualifications recognised under the Indian Medical Council Act, 1956; or 102 of 1956.

(ii) a post graduate degree in biological sciences;

(h) “paediatrician” means a person who possesses a post-graduate qualification in paediatrics;

(i) “pre-natal diagnostic procedures” means all gynaecological or obstetrical or medical procedures such as ultrasonography foetoscopy, taking or removing samples of amniotic fluid, chorionic villi, blood or any tissue of a pregnant woman for being sent to a Genetic Laboratory or Genetic Clinic for conducting pre-natal diagnostic test;

(j) “pre-natal diagnostic techniques” includes all pre-natal diagnostic procedures and pre-natal diagnostic tests;

(k) “pre-natal diagnostic test” means ultrasonography or any test or analysis of amniotic fluid, chorionic villi, blood or any tissue of a pregnant woman conducted to detect genetic or metabolic disorders or chromosomal abnormalities or congenital anomalies or haemoglobin pathies or sex-linked diseases;

(l) “prescribed” means prescribed by rules made under this Act;

(m) “registered medical practitioner” means a medical practitioner who possesses any recognised medical qualification as defined in clause.

(h) of section 2 of the Indian Medical Council Act, 1956, and whose name has been 102 of 1956. entered in a State a Medical Register;

(n) “regulations” means regulations framed by the Board under this Act.

CHAPTER II

Regulation of Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics

3. *Regulation of Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics.*— On and from the commencement of this Act,—

(1) no Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic unless registered under this Act, shall conduct or associate with, or help in, conducting activities relating to pre-natal diagnostic techniques;

(2) no Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall employ or cause to be employed any person who does not possess the prescribed qualifications;

(3) no medical geneticist, gynaecologist paediatrician registered medical practitioner or any other person shall conduct or cause to be conducted or aid in conducting by himself or through any other person, any pre-natal diagnostic techniques at a place other than a place registered under this Act.

CHAPTER III

Regulation of Pre-Natal Diagnostic Techniques

4. *Regulation of pre-natal diagnostic techniques.*— On and from the commencement of this Act,—

(1) no place including a registered Genetic Counselling Centre or Genetic Laboratory or Genetic Clinic shall be used or caused to be used by any person for conducting pre-natal diagnostic techniques except for the purposes specified in clause (2) and after satisfying any of the conditions specified in clause (3);

(2) no pre-natal diagnostic techniques shall be conducted except for the purpose of detection of any of the following abnormalities, namely:—

- (i) chromosomal abnormalities;
- (ii) genetic metabolic diseases;
- (iii) haemoglobinopathies;
- (iv) sex-linked genetic diseases;
- (v) congenital anomalies;
- (vi) any other abnormalities or diseases as may be specified by the Central Supervisory Board;

(3) no pre-natal diagnostic techniques shall be used or conducted unless the person qualified to do so is satisfied that any of the following conditions are fulfilled, namely:—

- (i) age of the pregnant woman is above thirty-five years;
- (ii) the pregnant woman has undergone of two or more spontaneous abortions or foetal loss;
- (iii) the pregnant woman had been exposed to potentially teratogenic agents such as drugs, radiation, infection or chemicals;
- (iv) the pregnant woman has a family history of mental retardation or physical deformities such as spasticity or any other genetic disease;
- (v) any other condition as may be specified by the Central Supervisory Board;

(4) no person, being a relative or the husband of the pregnant woman shall seek or encourage the conduct of any pre-natal diagnostic techniques on her except for the purpose specified in clause (2).

5. *Written consent of pregnant woman and prohibition of communicating the sex of foetus.*— (1) No person referred to in clause (2) of section 3 shall conduct the pre-natal diagnostic procedures unless—

(a) he has explained all known side and after effects of such procedures to the pregnant woman concerned;

(b) he has obtained in the prescribed form her written consent to undergo such procedures in the language which she understands; and

(c) a copy of her written consent obtained under clause (b) is given to the pregnant woman.

(2) No person conducting pre-natal diagnostic procedures shall communicate to the pregnant woman concerned or her relative the sex of the foetus by words, signs or in any other manner.

6. *Determination of sex prohibited.*— On and from commencement of this Act,—

(a) no Genetic Counselling Centre or Genetic Laboratory or Genetic Clinic shall conduct or cause to be conducted in its centre, Laboratory or Clinic pre-natal diagnostic techniques including ultrasonography, for the purpose of determining the sex of a foetus;

(b) no person shall conduct or cause to be conducted any pre-natal diagnostic techniques including ultrasonography for the purpose of determining the sex of a foetus.

CHAPTER IV

Central Supervisory Board

7. *Constitution of Central Supervisory Board.*— (1) The Central Government shall constitute a Board to be known as the Central Supervisory Board to exercise the powers and perform the functions conferred on the Board under this Act.

(2) The Board shall consist of—

(a) the Minister in charge of the Ministry or Department of Family Welfare, who shall be the Chairman, *ex-officio*;

(b) the Secretary to the Government of India in charge of the Department of Family Welfare, who shall be the Vice-Chairman, *ex-officio*;

(c) two members to be appointed by the Central Government to represent the Ministers of Central Government in charge of Woman and Child Development and of Law and Justice, *ex-officio*;

(d) the Director General of Health Services of the Central Government, *ex-officio*;

(e) ten members to be appointed by the Central Government, two each from amongst—

- (i) eminent medical geneticists;
- (ii) eminent gynaecologists and obstetricians;
- (iii) eminent paediatricians;
- (iv) eminent social scientists; and
- (v) representatives of woman welfare organisations;

(f) three woman Members of Parliament, of whom two shall be elected by the House of the People and one by the Council of States;

(g) four members to be appointed by the Central Government by rotation to represent the State and the Union territories, two in the alphabetical order and two in the reverse alphabetical order;

Provided that no appointment under this clause shall be made except on the recommendation of the State Government or, as the case may be, the Union territory;

(h) an officer, not below the rank of a Joint Secretary or equivalent of the Central Government, in charge of Family Welfare, who shall be the Member-Secretary, *ex-officio*.

8. *Term of office of members.*— (1) The term of office of a member, other than an *ex-officio* member, shall be,—

(a) in case of appointment under clause (e) or clause (f) of sub-section (2) of section 7, three years; and

(b) in case of appointment under clause (g) of the said sub-section, one year.

(2) If a casual vacancy occurs in the office of any other members, whether by reason of his death, resignation or inability to discharge his functions owing to illness or other incapacity, such vacancy shall be filled by the Central Government by making a fresh appointment and the member so appointed shall hold office for the remainder of the term of office of the person in whose place he is so appointed.

(3) The Vice-Chairman shall perform such functions as may be assigned to him by the Chairman from time to time.

(4) The procedure to be followed by the members in the discharge of their functions shall be such as may be prescribed.

9. *Meetings of the Board.*— (1) The Board shall meet at such time and place, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be provided by regulations:

Provided that the Board shall meet at least once in six months.

(2) The Chairman and in his absence the Vice-Chairman shall preside at the meetings of the Board.

(3) If for any reason the Chairman or the Vice-Chairman is unable to attend any meeting of the Board, any other member chosen by the members present at the meeting shall preside at the meeting.

(4) All questions which come up before any meeting of the Board shall be decided by a majority of the votes of the members present and voting and in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have and exercise a second or casting vote.

(5) Members other than *ex-Officio* members shall receive such allowances, if any from the Board as may be prescribed.

10. *Vacancies, etc., not to invalidate proceedings of the Board.*— No act or proceeding of the Board shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board; or

(b) any defect in the appointment of a person acting as a member of the Board; or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

11. *Temporary association of persons with the Board for particular purposes.*— (1) The Board may associate with itself, in such manner and for such purposes as may be determined by regulations, any person whose assistance or advice it may desire in carrying out any of the provisions of this Act.

(2) A person associated with it by the Board under sub-section (1) for any purpose shall have a right to take part in the discussions relevant to that purpose, but shall not have a right to vote at a meeting of the Board and shall not be a member for any other purpose.

12. *Appointment of officers and other employees of the Board.*— (1) For the purpose of enabling it efficiently to discharge its functions under this Act, the Board may, subject to such regulations as may be made in this behalf, appoint (whether on deputation or otherwise) such number of officers and other employees as it may consider necessary:

Provided that the appointment of such category of officers, as may be specified in such regulations, shall be subject to the approval of the Central Government.

(2) Every officer or other employee appointed by the Board shall be subject to such conditions of service and shall be entitled to such remuneration as may be specified in the regulations.

13. *Authentication of orders and other instruments of the Board.*— All orders and decisions of the Board shall be authenticated by the signature of the Chairman or any other member authorised by the Board in this behalf, and all other instruments issued by the Board shall be authenticated by the signature of the Member-Secretary or any other officer of the Board authorised in like manner in this behalf.

14. *Disqualifications for appointment as member.*— A person shall be disqualified for being appointed as a member if, he—

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been removed or dismissed from the service of the Government or a Corporation owned or controlled by the Government; or

(e) has, in the opinion of the Central Government, such financial or other interest in the Board as is likely to affect prejudicially the discharge by him of his functions as a member; or

(f) has, in the opinion of the Central Government, been associated with the use or promotion of pre-natal diagnostic technique for determination of sex.

15. *Eligibility of member for re-appointment*.— Subject to the other terms and conditions of service as may be prescribed, any person ceasing to be a member shall be eligible for re-appointment as such member.

16. *Functions of the Board*.— The Board shall have the following functions, namely:—

(i) to advise the Government on policy matters relating to use of pre-natal diagnostic techniques;

(ii) to review implementation of the act and the rules made thereunder and recommend changes in the said Act and rules to the Central Government;

(iii) to create public awareness against the practice of pre-natal determination of sex and female foeticide;

(iv) to lay down code of conduct to be observed by persons working at Genetic Counselling Centres, Genetic Laboratories and Genetic Clinic;

(v) any other functions as may be specified under the Act.

CHAPTER V

Appropriate Authority and Advisory Committee

17. *Appropriate Authority and Advisory Committee*.—

(1) The Central Government shall appoint, by notification in the Official Gazette, one or more Appropriate Authorities for each of the Union territories for the purposes of this Act.

(2) The State Government shall appoint, by notification in the Official Gazette, one or more Appropriate Authorities for the whole or part of the State for the purposes of this Act having regard to the intensity of the problem of pre-natal sex determination leading to female foeticide.

(3) The officers appointed as Appropriate Authorities under sub-section (1) or sub-section (2) shall be,—

(a) when appointed for the whole of the State or the Union territory, of or above the rank of the Joint Director of Health and Family Welfare; and

(b) when appointed for any part of the State or the Union territory, of such other rank as the State Government or the Central Government, as the case may be, may deem fit.

(4) The Appropriate Authority shall have the following functions, namely:—

(a) to grant, suspend or cancel registration of a Genetic Counselling Centre, Genetic Laboratories or Genetic Clinic;

(b) to enforce standards prescribed for the Genetic Counselling Centre, Genetic Laboratory and Genetic Clinic;

(c) to investigate complaints of breach of the provisions of this Act or the rules made thereunder and take immediate action; and

(d) to seek and consider the advice of the Advisory Committee, constituted under sub-section (5), on application for registration and on complaints for suspension or cancellation of registration.

(5) The Central Government or the State Government, as the case may be, shall constitute an Advisory Committee for each Appropriate Authority to aid and advise the Appropriate Authority in the discharge of its functions, and shall appoint one of the members of the Advisory Committee to be its Chairman.

(6) The Advisory Committee shall consist of—

(a) three medical experts from amongst gynaecologists, obstetricians, paediatricians and medical geneticists;

(b) one legal expert;

(c) one officer to represent the department dealing with information and publicity of the State Government or the Union territory as the case may be;

(d) three eminent social workers of whom not less than one shall be from amongst representatives of women's organisations.

(7) No person who, in the opinion of the Central Government or the State Government, as the case may be, has been associated with the use or promotion of pre-natal diagnostic technique for determination of sex shall be appointed as a member of the Advisory Committee.

(8) The Advisory Committee may meet as and when it thinks fit or on the request of the Appropriate Authority for consideration of any application for registration or any complaint for suspension or cancellation of registration and to give advice thereon:

Provided that the period intervening between any two meetings shall not exceed the prescribed period.

(9) The terms and conditions subject to which a person may be appointed to the Advisory Committee and the procedure to be followed by such Committee in the discharge of its functions shall be such as may be prescribed.

CHAPTER VI

Registration of Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics

18. *Registration of Genetic Counselling Centres, Genetic Laboratories or Genetic Clinics*.— (1) No person shall open any Genetic Counselling Centre, Genetic Laboratories or Genetic Clinic after the commencement of this Act unless such Centre, laboratory or Clinic is duly registered separately or jointly under this Act.

(2) Every application for registration under sub-section (1), shall be made to the Appropriate Authority in such form and in such manner and shall be accompanied by such fees as may be prescribed.

(3) Every Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic engaged, either partly or exclusively, in counselling or conducting pre-natal diagnostic techniques for any of the purposes mentioned in section 4, immediately before the commencement of this Act, shall apply for registration within sixty days from the date of such commencement.

(4) Subject to the provisions of section 6, every Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic engaged in counselling or conducting pre-natal diagnostic techniques shall cease to conduct any such counselling or technique on the expiry of six months from the date of commencement of this Act unless such Centre, Laboratory or Clinic has applied for registration and is so registered separately or jointly or till such application is disposed of, whichever is earlier.

(5) No Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall be registered under this Act unless the Appropriate Authority is satisfied that such Centre, Laboratory or Clinic is in a position to provide such facilities, maintain such equipment and standards as may be prescribed.

19. *Certificate of registration.*— (1) The Appropriate Authority shall, after holding an inquiry and after satisfying itself that the applicant has complied with all the requirements of this Act and the rules made thereunder and having regard to the advice of the Advisory Committee in this behalf, grant a certificate of registration in the prescribed form jointly or separately to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, as the case may be.

(2) If, after the inquiry and after giving an opportunity of being heard to the applicant and having regard to the advice of the Advisory Committee, the Appropriate Authority is satisfied that the applicant has not complied with the requirements of this Act or the rules, it shall, for reasons to be recorded in writing, reject the application for registration.

(3) Every certificate of registration shall be renewed in such manner and after such period and on payment of such fees as may be prescribed.

(4) The certificate of registration shall be displayed by the registered genetic Counselling Centre, Genetic Laboratory or Genetic Clinic in a conspicuous place at its place of business.

20. *Cancellation or suspension of registration.*— (1) The Appropriate Authority may *suo moto*, or on complaint, issue a notice to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic to show cause why its registration should not be suspended or cancelled for the reasons mentioned in the notice.

(2) If, after giving a reasonable opportunity of being heard to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic and having regard to the advice of the Advisory Committee, the Appropriate Authority is satisfied that there has been a breach

of the provisions of this Act or the rules, it may, without prejudice to any criminal action that it may take against such Centre, Laboratory or Clinic, suspend its registration for such period as it may think fit or cancel its registration, as the case may be.

(3) Notwithstanding anything contained in sub-section (1) and (2), If the Appropriate Authority is of the opinion that it is necessary or expedient so to do in the public interest, it may, for reasons to be recorded in writing, suspend the registration of any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic without issuing any such notice referred to in sub-section (1).

21. *Appeal.*— The Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic may, within thirty days from the date of receipt of the order of suspension or cancellation of registration passed by the Appropriate Authority under section 20, prefer an appeal against such order to—

(i) the Central Government, where the appeal is against the order of the Central Appropriate Authority; and

(ii) the State Government, where the appeal is against the order of the State Appropriate Authority,

in the prescribed manner.

CHAPTER VII

Offences and Penalties

22. *Prohibition of advertisement relating to pre-natal determination of sex and punishment for contravention.*— (1) No person, organisation, Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall issue or cause to be issued any advertisement in any manner regarding facilities of pre-natal determination of sex available at such Centre, Laboratory, Clinic or any other place.

(2) No person or organisation shall publish or distribute or cause to be published or distributed any advertisement in any manner regarding facilities of pre-natal determination of sex available at any Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic or any other place.

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees.

Explanation.— For the purposes of this section, "advertisement" includes any notice, circular, label wrapper or other document and also includes any visible representation made by means of any light, sound, smoke or gas.

23. *Offences and penalties.*— (1) Any medical geneticist, gynaecologist, registered medical practitioner or any person who owns a Genetic Counselling Centre, a Genetic Laboratory or a Genetic Clinic or is employed in such a Centre, Laboratory or Clinic and renders his professional or technical services to or at such a Centre, Laboratory or Clinic, whether on an honorary

basis or otherwise, and who contravenes any of the provisions of this Act or rules made thereunder shall be punishable with imprisonment for a term which may extend to three years and fine which may extend to ten thousand rupees and on any subsequent conviction, with imprisonment which may extend to five years and with fine which may extend to fifty thousand rupees.

(2) The name of the registered medical practitioner who has been convicted by the court under sub-section (1) shall be reported by the Appropriate Authority to the respective State Medical Council for taking necessary action including the removal of his name from the register of the Council for a period of two years for the first offence and permanently for the subsequent offence.

(3) Any person who seeks the aid of a Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic or of a medical geneticist, gynaecologist or registered medical practitioner for conducting pre-natal diagnostic techniques on any pregnant woman (including such woman unless she was compelled to undergo such diagnostic techniques) for purposes for other than those specified in clause (2) of section 4, shall, be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees and on any subsequent conviction with imprisonment which may extend to five years and with fine which may extend to fifty thousand rupees.

24. *Presumption in the case of conduct of pre-natal diagnostic techniques.*— Notwithstanding anything 1 of 1872. in the Indian Evidence Act, 1872, the court shall presume unless the contrary is proved that the pregnant woman has been compelled by her husband or the relative to undergo pre-natal diagnostic technique and such person shall be liable for abetment of offence under sub-section (3) of section 23 and shall be punishable for the offence specified under that section.

25. *Penalty for contravention of the provisions of the Act or rules for which no specific punishment is provided.*— Whoever contravenes any of the provisions of this Act or any rules made thereunder, for which no penalty has been elsewhere provided in this Act, shall be punishable with imprisonment for a term which may extend to three months or with fine, which may extend to one thousand rupees or with both and in the case of continuing contravention with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

26. *Offences by companies.*— (1) Where any offence, punishable under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence punishable under this Act has been

committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals, and

(b) “director”, in relation to a firm, means a partner in the firm.

27. *Offence to be cognizable, non-bailable and non-compoundable.*— Every offence under this Act shall be cognizable, non-bailable and non-compoundable.

28. *Cognizance of offences.*— (1) No court shall take cognizance of an offence under this Act except on a complaint made by—

(a) the Appropriate Authority concerned, or any officer authorised in this behalf by the Central Government or State Government, as the case may be, or the Appropriate Authority; or

(b) a person who has given notice of not less than thirty days in the manner prescribed, to the Appropriate Authority, or the alleged offence and of his intention to make a complaint to the court.

Explanation.— For the purpose of this clause, “person” includes a social organisation.

(2) No court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

(3) Where a complaint has been made under clause (b) of sub-section (1), the court may, on demand by such person, direct the Appropriate Authority to make available copies of the relevant records in its possession to such person.

CHAPTER VIII

Miscellaneous

29. *Maintenance of records.*— (1) All records, charts, forms reports, consent letters and all other documents required to be maintained under this Act and the rules shall be preserved for a period of two years or for such period as may be prescribed:

Provided that, if any criminal or other proceedings are instituted against any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic the records and all other documents of such Centre, Laboratory or Clinic shall be preserved till the final disposal of such proceedings.

(2) All such records shall, at all reasonable times, be made available for inspection to the Appropriate Authority or to any other person authorised by the Appropriate Authority in this behalf.

30. *Power to search and seize records, etc.*— (1) If the Appropriate Authority has reason to believe that an offence under this Act has been or is being committed at any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, such Authority or any officer authorised thereof in this behalf may, subject to such rules as may be prescribed, enter and search at all reasonable times with such assistance, if any, as such authority or officer considers necessary, such Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic and examine any record, register, document, book, pamphlet, advertisement or any other material object found therein and seize the same if such Authority or officer has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.

(2) The provisions of the Code of Criminal Procedure, 1973 relating to searches and seizures 2 of 1974, shall, so far as may be, apply to every search or seizure made under this Act.

31. *Protection of action taken in good faith.*— No suit, prosecution or other legal proceeding shall lie against the Central or the State Government or the Appropriate Authority or any officer authorised by the Central or State Government or by the Authority for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

32. *Power to make rules.*— (1) The Central Government may make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice, to the generality of the foregoing power, such rules may provide for—

(i) the minimum qualifications for persons employed at a registered Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic under clause (1) of section 3;

(ii) the form in which consent of a pregnant woman has to be obtained under section 5;

(iii) the procedure to be followed by the members of the Central Supervisory Board in the discharge of their functions under sub-section (4) of section 8;

(iv) allowances for members other than ex-officio members admissible under sub-section (5) of section 9;

(v) the period intervening between any meeting of the Advisory Committee under the proviso to sub-section (8) of section 17;

(vi) the terms and conditions subject to which a person may be appointed to the Advisory Committee and the procedure to be followed by such committee under sub-section (9) of section 17;

(vii) the form and manner in which an application shall be made for registration and the fee payable thereof under sub-section (2) of section 18;

(viii) the facilities to be provided, equipment and other standards to be maintained by the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic under sub-section (5) of section 18;

(ix) the form in which a certificate of registration shall be issued under sub-section (1) of section 19;

(x) the manner in which and the period after which a certificate of registration shall be renewed and the fee payable for such renewal under sub-section (3) of section 19;

(xi) the manner in which an appeal may be preferred under section 21;

(xii) the period up to which records, charts etc., shall be preserved under sub-section (1) of section 29;

(xiii) the manner in which the seizure of documents, records, objects, etc., shall be made and the manner in which seizure list shall be prepared and delivered to the person from whose custody such documents, records or objects were seized under sub-section (1) of section 30;

(xiv) any other matter that is required to be, or may be prescribed.

33. *Power to make regulation.*— The Board may, with the previous sanction of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with the provisions of this Act and the rules made thereunder to provide for—

(a) the time and place of the meetings of the Board and the procedure to be followed for the transaction of business at such meeting and the number of members which shall form the quorum under sub-section (1) of section 9;

(b) the manner in which a person may be temporarily associated with the Board under sub-section (7) of section 11;

(c) the method of appointment, the conditions of service and the scales of pay and allowances of the officer and other employees of the Board appointed under section 12;

(d) generally for the efficient conduct of the affairs of the Board.

34. *Rules and regulations to be laid before Parliament.*— Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, and while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Notification

12/1/94/LA

The Neyveli Lignite Corporation Limited (Acquisition and Transfer of Power Transmission System) Act, 1994 (Central Act 56 of 1994) which has been passed by the Parliament and assented to by the President of India on 14-9-1994 and published in the Gazette of India, Extraordinary, Part II Section I, dated 14-9-1994 is hereby published for the general information of the public.

P. V. Kadnekar, Joint Secretary (Law).

Panaji, 25th April, 1995.

THE NEYVELI LIGNITE CORPORATION LIMITED
(ACQUISITION AND TRANSFER OF POWER
TRANSMISSION SYSTEM) ACT, 1994

AN

ACT

To provide in the public interest for the acquisition and transfer of the power transmission system of the Neyveli Lignite Corporation Limited and the right, title and interest of the company in the power transmission system to the Power Grid Corporation of India Limited, with a view to developing the National Power Grid to ensure transmission of power, within and across the different regions of India, on a more scientific, efficient and economic basis and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forth-fifth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.* — (1) This Act may be called the Neyveli Lignite Corporation Limited (Acquisition and Transfer of Power Transmission System) Act, 1994.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) The provisions of sections 8 to 11 and sections 13 to 16 shall come into force at once and the remaining provisions of this Act shall be deemed to have come into force on the 1st day of April, 1992 and any reference to the commencement of this Act in any provision of this Act shall be construed as a reference to the commencement of that provision.

2. *Definitions.* — In this Act, unless the context otherwise requires, —

(a) “appointed day” means the 1st day of April, 1992;

(b) “associated personnel” means the employees of the company associated with its power transmission system;

(c) “company” means the Neyveli Lignite Corporation Limited, a company incorporated and registered under the Companies Act, 1956 having 1 of 1956. its registered office at Neyveli - 607801, South Arcot District, Tamil Nadu;

(d) “Corporation” means the Power Grid Corporation of India Limited being a company within the meaning of the Companies Act, 1956 1 of 1956. and having its registered office at Hemkunt Chambers, 89, Nehru Place, New Delhi - 110019;

(e) “notification” means a notification published in the Official Gazette;

(f) “power transmission system”, in relation to the company, means the main transmission lines [including extra high voltage alternative current (EHVAC) lines and high voltage direct current (HVDC) lines] and sub-stations owned by the company;

(g) “prescribed” means prescribed by rules made under this Act;

(h) words and expressions used herein and not defined but defined in the Electricity (Supply) Act, 1948 or, as the case may be, the Companies Act, 54 of 1948. 1956 shall have the meanings, respectively, assigned 1 of 1956. to them in those Acts.

CHAPTER II

Acquisition and Transfer of Power Transmission System

3. *Acquisition of rights of company in relation to the power transmission system.* — (1) On the appointed day, the power transmission system and the right, title and interest of the company in relation to its power transmission system shall, by virtue of this Act, be deemed to have been transferred to, and vested in, the Central Government.

(2) The power transmission system vested in the Central Government by virtue of sub-section (1) shall, immediately after it has so vested, be deemed to have been transferred to, and vested in, the Corporation.

4. *General effect of vesting.* — (1) The power transmission system shall be deemed to include all assets, rights, leaseholds, powers, authorities and privileges and all property, movable, and immovable relating to such system including lands, buildings, workshops, projects (whether complete or at any stage of completion or planning), stores, spares, instruments, machinery and equipment, construction equipment, unutilised long-term and short-term loans and all other rights and interests in, or

arising out of, such property as were, immediately before the appointed day, in the ownership, possession, power or control of the company and all books of account, registers and all other documents of whatever nature relating thereto but shall be deemed not to include —

(a) book debts due to the company, immediately before the appointed day;

(b) cash balances and bank balances as on the appointed day;

(c) income and expenditure on revenue account relating to any period before the appointed day.

Explanation.— For the removal of doubts, it is hereby declared that rights in relation to the power transmission system of the company which have been transferred to, and vested in, the Corporation under sub-section (2) of section 3 and this sub-section shall include the right to collect transmission charges for transmission of power and any monies collected on or after the appointed day by the company as transmission charges (whether shown separately or not) shall be payable by the company to the Corporation.

(2) Unless otherwise expressly provided by this Act, all deeds, bonds, guarantees (other than guarantees given by the Government of India), agreements, powers of attorney, grants of legal representation and other instruments of whatever nature in relation to the power transmission system of the company, subsisting or having effect immediately before the appointed day, and to which the company is a party or which are in favour of the said company shall be of as full force and effect against or in favour of the Corporation and may be enforced or acted upon as fully and effectually as if in the place of the company, the Corporation had been a party thereto or as if they had been issued in favour of the Corporation.

(3) If, on the date of commencement of this Act, any suit, appeal or other proceeding of whatever nature, in relation to any property or assets which have been transferred to, and vested in, the Corporation under sub-section (2) of section 3, instituted or preferred by or against the company was pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the power transmission system of the company or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted or enforced, subject to the provisions of sub-section (1) of section 5, by or against the Corporation.

5. Corporation to be liable for certain prior liabilities. — (1) Subject to the provisions of sub-section (2), every liability of the company in relation to its power transmission system, in respect of any period prior to the appointed day, which has been transferred to, and vested in, the Corporation under sub-section (2) of section 3, shall be the liability of the Corporation and shall be enforceable against the Corporation and not against the company:

Provided that nothing contained in this sub-section shall apply to —

(a) the income and expenditure on revenue account relating to any period before the appointed day and received or, as the

case may be, incurred by the company on or after the appointed day:

(b) arrears of depreciation, regarding contingent liabilities on capital account relating to any period before the appointed day, arising on account of the decision of any court, tribunal or other authority.

(2) Where any repayment of a loan or interest, or both, has been made, on or after the appointed day, by the company to any lending agency, such repayment shall be deemed to have been made by the Corporation and the amount of such repayment shall be reimbursed by the Corporation to the company on adjustment of transmission charges or any other amount due to the Corporation from the company.

6. Corporation to be lessee or tenant. — (1) Where any property is held by the company in relation to its power transmission system under any lease or right of tenancy, the Corporation shall, on and from the appointed day, be deemed to have become the lessee or tenant, as the case may be, in respect of such property as if the lease or tenancy in relation to such property had been granted to the Corporation and thereupon all the rights under such lease or tenancy shall be deemed to have been transferred to, and vested in, the Corporation.

(2) On the expiry of the term of any lease or tenancy referred to in sub-section (1), such lease or tenancy shall, if so desired by the Corporation, be renewed on the same terms and conditions on which the lease or tenancy was held by the company immediately before the appointed day.

7. Removal of doubts. — (1) For the removal of doubts, it is hereby declared that the provisions of sections 3, 4, 5 and 6 shall apply to the extent to which any property appertains to the business relating to the power transmission system carried on by the company and to the rights and powers acquired, and to debts, liabilities and obligations incurred, and to contracts, agreements and other instruments made by the company and to legal proceedings relating to those matters pending in any court, tribunal or other authority in India.

(2) If any question arises as to whether any property appertained, on the appointed day, to any business of the company in relation to its power transmission system, or whether any rights, powers, debts, liabilities or obligations were acquired or incurred or any contract, agreement or other instrument was made by the company for the purposes of its said business, or whether any document relates to those purposes, the question shall be referred to the Central Government which shall, after giving a reasonable opportunity of being heard to the persons interested in the matter, decide it in such manner as it may think fit.

8. Payment of amount. — (1) For the transfer to, and vesting in, the Central Government under sections 3 and 4 of the power transmission system and the right, title and interest of the company in relation to its power transmission system there shall be paid, in the prescribed manner, by the Central Government to the company such amount as is equal to the book value of all the assets and properties after deduction of liabilities (other than contingent liabilities) given in the audited statement of accounts of the company as on the 31st day of March, 1992.

(2) For the transfer to, and vesting in, the Corporation under sub-section (2) of section 3 of the power transmission system and the right, title and interest of the company in relation to its power transmission system, there shall be paid, in the prescribed manner, by the Corporation to the Central Government, the amount which is paid by that Government to the company under sub-section (1).

(3) In case of any dispute relating to the nature of any asset, property or liability or the amount payable under sub-section (1), the dispute shall be referred by the Central Government to such authority as it may appoint and the decision of that authority in the matter shall be final.

CHAPTER III

Delivery of Assets, etc., to the Corporation

9. *Duty of persons to account for assets, etc., in their possession.* — (1) Any person who has, on the date of commencement of this Act, in his possession or under his control, any assets, books and any other documents relating to the power transmission system which has been transferred to, and vested in, the Corporation under sub-section (2) of section 3, shall be liable to account for the said assets, books and documents to the Corporation and shall deliver them up to the Corporation or to such person or persons as the Corporation may specify in this behalf.

(2) The Corporation may take or cause to be taken all necessary steps for securing possession of the power transmission system which has been transferred to, and vested in, the Corporation under this Act.

(3) The company shall, within such period as the Corporation may allow in this behalf, furnish to the Corporation a complete inventory of all its property and assets as on the appointed day pertained to its power transmission system which has been transferred to, and vested in, the Corporation under sub-section (2) of section 3.

CHAPTER IV

Provisions relating to Associated Personnel

10. *Continuance of associated personnel.* — (1) On the vesting of the power transmission system of the company in the Corporation, the associated personnel who have been, immediately on or before the 1st day of December, 1992, employed in the company and have not already become employees of the Corporation shall become, on and from the date of commencement of this Act, employees of the Corporation and shall hold office or service under the Corporation on the terms and conditions which are not in any way less favourable than those which would have been admissible to them if there had been no such vesting and shall continue to do so unless and until their employment under the Corporation is duly terminated or until their remuneration and other conditions of service are duly altered by the Corporation.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or any other law for the time being in force, the transfer of the services of the associated personnel to the Corporation, shall not entitle such personnel to any compensation under this Act or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

11. *Provident fund and other funds.* — (1) Where the company has established a provident fund or any other fund for the benefit of the persons employed by it, the monies relatable to the associated personnel who have already become employees of the Corporation or whose services have become transferred under this Act to the Corporation shall, out of the monies standing, on the date of transfer of the associated personnel, to the credit of such provident fund or other fund, stand transferred to, and vest in, the Corporation.

(2) The monies which stand transferred under sub-section (1) to the Corporation shall be dealt with by the Corporation in such manner as may be prescribed.

CHAPTER V

Miscellaneous

12. *Act to have overriding effect.* — The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act, or in any decree or order of any court, tribunal or other authority.

13. *Penalties.* — Any person who, —

(a) having in his possession, custody or control any property forming part of the power transmission system of the company wrongfully withhold such property from the Corporation; or

(b) wrongfully obtain possession of, or retains, any property forming part of the power transmission system of the company; or

(c) wilfully withholds or fails to furnish to the Corporation or any person or body of persons specified by the Corporation, any document or inventory relating to the power transmission system of the company, which may be in his possession, custody or control; or

(d) fails to deliver to the Corporation or any person or body of persons specified by that Corporation, any assets, books of account, register or other documents in his possession, custody or control relating to the power transmission system of the company;

shall be punishable with imprisonment for a term which may extend to two years and also with fine which may extend to ten thousand rupees.

14. *Offences by companies.* — (1) Where an offence punishable under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge and that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. — For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

15. *Protection of action taken in good faith.*— No suit, prosecution or other legal proceeding shall lie against the Central Government or the corporation or the company or any officer of that Government, Corporation or company or any other person authorised by that Government, Corporation or company for anything which is in good faith done or intended to be done under this Act.

16. *Power to make rules.*— (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all any of the following matters, namely:—

(a) the manner in which the amount is to be paid under sub-section (1) or sub-section (2) of section 8;

(b) the manner in which the monies in any provident fund or other fund, referred to in sub-section (2) of section 11, shall be dealt with;

(c) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.